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## HOUSE BILL No. 1320

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-6-9.8; IC 6-8.1-1-1.

**Synopsis:** Auto rental excise tax. Authorizes a county other than Marion County to adopt a supplemental auto rental excise tax to fund certain capital improvements. (Marion County has a supplemental auto rental excise tax under existing law.)

**Effective:** July 1, 2004.

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### Hasler, Crawford, Frizzell

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January 15, 2004, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1320

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-6-9.8 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2004]:

4 **Chapter 9.8. County Supplemental Auto Rental Excise Tax**

5 **Sec. 1. This chapter applies to any county that does not impose**  
6 **a supplemental auto rental excise tax under IC 6-6-9.7.**

7 **Sec. 2. As used in this chapter, "department" refers to the**  
8 **department of state revenue.**

9 **Sec. 3. As used in this chapter, "gross retail income" has the**  
10 **meaning set forth in IC 6-2.5-1-5, except that the term does not**  
11 **include taxes imposed under IC 6-2.5.**

12 **Sec. 4. As used in this chapter, "passenger motor vehicle" has**  
13 **the meaning set forth in IC 9-13-2-123(a).**

14 **Sec. 5. As used in this chapter, "person" has the meaning set**  
15 **forth in IC 6-2.5-1-3.**

16 **Sec. 6. As used in this chapter, "retail merchant" has the**  
17 **meaning set forth in IC 6-2.5-1-8.**

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1       Sec. 7. As used in this chapter, "truck" has the meaning set  
2       forth in IC 9-13-2-188(a).

3       Sec. 8. (a) A county council may adopt an ordinance to impose  
4       an excise tax, known as the county supplemental auto rental excise  
5       tax, upon the rental of passenger motor vehicles and trucks in the  
6       county for periods of less than thirty (30) days. In a county subject  
7       to IC 36-2-3.5, an ordinance passed by the county council under  
8       this subsection is considered adopted if the ordinance is:

9           (1) approved by signature of a majority of the county  
10          executive;

11          (2) neither approved nor vetoed by a majority of the county  
12          executive, within ten (10) days after passage by the county  
13          council; or

14          (3) passed over the veto of the county executive by a  
15          two-thirds (2/3) vote of the county council, within sixty (60)  
16          days after presentation of the ordinance or resolution to the  
17          county executive.

18       (b) The ordinance must specify that the tax expires on or before  
19       a specific date not to exceed thirty (30) years after the date of  
20       adoption of the ordinance.

21       (c) The county supplemental auto rental excise tax that may be  
22       imposed upon the rental of a passenger motor vehicle or truck  
23       equals five percent (5%) of the gross retail income received by the  
24       retail merchant for the rental.

25       (d) If a county council adopts an ordinance under subsection (a),  
26       the county council shall immediately send a certified copy of the  
27       ordinance to the commissioner of the department.

28       (e) An ordinance adopted under subsection (a) must specify the  
29       effective date of the ordinance and provide that the ordinance  
30       takes effect:

31           (1) at least thirty (30) days after the adoption of the  
32           ordinance; and

33           (2) on the first day of a month.

34       Sec. 9. (a) The rental of a truck is exempt from the county  
35       supplemental auto rental excise tax if the declared gross weight of  
36       the rented truck exceeds eleven thousand (11,000) pounds.

37       (b) The rental of a passenger motor vehicle or truck by a funeral  
38       director licensed under IC 25-15 is exempt from the county  
39       supplemental auto rental excise tax if the rental is part of the  
40       services provided by the director for a funeral.

41       (c) The temporary rental of a passenger motor vehicle or truck  
42       is exempt from the county supplemental auto rental excise tax if

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the rental is:

- (1) made or reimbursed under a contract or an agreement between a provider and person given for consideration over and above the lease or purchase price of a motor vehicle that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;
- (2) made or reimbursed under a contract for mechanical breakdown insurance;
- (3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to the person after the person's vehicle is damaged or destroyed in a collision; or
- (4) otherwise provided to a person as a replacement vehicle:
  - (A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or
  - (B) until the person permanently replaces a vehicle that has been destroyed.

**Sec. 10.** The person that rents a passenger motor vehicle or truck is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

**Sec. 11. (a)** Except as otherwise provided in this section, the county supplemental auto rental excise tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

**(b)** Each retail merchant filing a return for the county supplemental auto rental excise tax shall indicate in the return:

- (1) all locations in the county where the retail merchant collected county supplemental auto rental excise taxes; and
- (2) the amount of county supplemental auto rental excise taxes collected at each location.

**(c)** The return to be filed for the payment of the county supplemental auto rental excise tax may be a separate return, combined with the return filed for the payment of the auto rental excise tax under IC 6-6-9, or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department.

**Sec. 12. (a)** All revenue collected from the county supplemental

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1 auto rental excise tax shall be deposited in a special account of the  
2 state general fund named the county supplemental auto rental  
3 excise tax account.

4 (b) On or before the twentieth day of each month, all amounts  
5 held in the county supplemental auto rental excise tax account shall  
6 be distributed to the county.

7 (c) The amount to be distributed to the county equals the total  
8 county supplemental auto rental excise taxes that were initially  
9 imposed and collected from within the county. The department  
10 shall notify the county auditor of the amount of taxes to be  
11 distributed to the county.

12 (d) All distributions from the county supplemental auto rental  
13 excise tax account shall be made by warrants issued by the auditor  
14 of state to the treasurer of state ordering those payments to the  
15 county.

16 (e) Taxes distributed to the county under this section must be  
17 used for the following:

18 (1) To finance, construct, acquire, improve, renovate,  
19 remodel, or equip buildings, facilities, or improvements that  
20 will be of general public benefit or welfare and will promote  
21 the cultural, recreational, public, or civic well-being of the  
22 community. This includes the land comprising the site, costs  
23 related to the demolition of existing buildings, equipment,  
24 heating and air conditioning facilities, sewage disposal  
25 facilities, landscaping, walks, drives, parking facilities, other  
26 structures, facilities, appurtenances, materials, and supplies  
27 that are necessary to make any building, facility, or  
28 improvement suitable for the use for which it was  
29 constructed, and any other reasonably related costs.

30 (2) To repay bonds issued or leases entered into for the  
31 purposes described in subdivision (1).

32 (f) The county council must approve an expenditure of taxes  
33 distributed to the county under this section.

34 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.192-2002(ss),  
35 SECTION 140, IS AMENDED TO READ AS FOLLOWS  
36 [EFFECTIVE JULY 1, 2004]: Sec. 1. "Listed taxes" or "taxes" includes  
37 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the  
38 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax  
39 (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility  
40 receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5);  
41 the adjusted gross income tax (IC 6-3); the supplemental net income  
42 tax (IC 6-3-8) (repealed); the county adjusted gross income tax

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1 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county  
 2 economic development income tax (IC 6-3.5-7); the municipal option  
 3 income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the  
 4 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the  
 5 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax  
 6 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax  
 7 collected under a reciprocal agreement under IC 6-8.1-3; the motor  
 8 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax  
 9 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); **the county**  
 10 **supplemental auto rental excise tax (IC 6-6-9.8)**; the cigarette tax  
 11 (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax  
 12 (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax  
 13 (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum  
 14 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the  
 15 various county food and beverage taxes (IC 6-9); the county admissions  
 16 tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the  
 17 emergency and hazardous chemical inventory form fee (IC 6-6-10); the  
 18 penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the  
 19 fees and penalties assessed for overweight vehicles (IC 9-20-4 and  
 20 IC 9-30); the underground storage tank fee (IC 13-23); the solid waste  
 21 management fee (IC 13-20-22); and any other tax or fee that the  
 22 department is required to collect or administer.

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